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I. An Enquiry into the Power of Dispensing with Penal Statutes. Together with some Animadversions upon a Book writ by Sir Edward Herbert, Lord Chief Justice of the Court of Common-Pleas, Entituled, A short Account of the Authorities in Law, upon which Judgment was given in Sir Edward Hales's Case.

II. The Power, Jurisdiction, and Priviledge of Parliament; And the Antiquity of the House of Commons Asserted: Occasioned by an Information in the King's-Bench, by the Attorney-General, against the Speaker of the House of Commons.

As also a Discourse concerning the Ecclesiastical Jurisdiction in the Realm of England; occasioned by the late Commission in Ecclesiastical Causes.

III. A Defence of the Late Lord RUSSEL's Innocency, By way of Answer or Confutation of a Libellous Pamphlet, Intituled, An Antidote against Poyson; With Two Letters of the Author of this Book, upon the Subject of his Lordship's Tryal.

Together with an Argument in the Great Case concerning Elections of Members to Parliament, between Sir Samuel Barnardiston Plaintiff, and Sir William Soames Sheriff of Suffolk, Defendant, In the Court of King's-Bench, in an Action upon the Case, and afterwards by Error sued in the Exchequer-Chamber.

All Three Writ by Sir Robert Atkyns, Knight of the Honourable Order of the Bath, and late one of the Judges of the Court of Common-Pleas.

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THE  
Lord Russell's  
INNOCENCY

Further DEFENDED;

By way of

REPLY

TO AN

ANSWER;

ENTITLED,

*The Magistracy and Government of ENGLAND  
Vindicated.*

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By Sir ROBERT ATKYNS,

Knight of the Honourable Order of the Bath,

And late one of the Judges of the Court of *Common-Pleas*.

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LICENS'D,

*April 9. 1689.*

*James Fraser.*

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Printed for Timothy Goodwin, at the Maiden-head against  
St. Dunstan's Church in Fleet-street. 1689.

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THE  
**Lord Russel's**  
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 Further DEFENDED, &c.

**T**Here is a Pamphlet very lately published, which styles it self, *The Magistracy and Government of England Vindicated*.

It appears by the following part of the Title, to be no less than *A Justification of the Proceedings against Criminals*; impudently declaring in plain and express words, as also by all his subsequent Discourse, That by the *Criminal* he means the late Lord Russel. Page 2. Column 2. in the middle of it.

And the Author does professedly own, that the Book is written by way of Answer to a small Discourse or Argument lately printed, which bears the Title of *A Defence of the late Lord Russel's Innocency*.

It argues a transcendent boldness in this Answerer, to call this Noble Lord a *Criminal*, and to justify those Proceedings against him, which all honest men ever accounted no less than Murther, under a pretence and colour of a legal Proceeding, and to presume to publish such a Discourse as this, after the King and the two Houses of Parliament have, by the most solemn Judgment that can be given, pronounced that Noble Lord to have been Innocent; and thereby have done so great Right to his Memory, and that with so high a Zeal, and so mighty a Concernment for him, as the like cannot be shewn in former Precedents.

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It is most evident, that the Author was composing this Scandalous Libel even when he very well knew the Bill was brought down from the Lords to the Commons, for reversing this Noble Lord's Attainder; and the Author could not but observe with what Zeal and Affection the Bill was entertain'd at its first entrance into that House.

The Author, by endeavouring to conceal himself, is from thence, as he plainly professes, encouraged to take the more liberty to lay about him in the dark (as he fancies) and thinks to escape unseen; and not only strikes at the Author of the Lord Russell's Defence, but as far as in him lies, wounds that Noble Lord in his Honour, whose Justification and Defence was so undertaken, and labours to overthrow that Right and Justice that hath been done by the Supream Authority of the Nation.

This is no way agreeable to a noble and generous soul, to come behind a man and strike him; it rather follows the Example of that devilish Powder-Plot, to destroy and blow up the King and both Houses, and to do it in such a close and clandestine way, *as it should not be known who hurt them*: for he was too much a Coward to set his Name to it.

But it is very easie to tell you what are the first Letters of this Author's Name, without casting of a Figure. His Argument in Law plainly speaks his Profession, and what Robe he wears: and his stile and phrase of speaking, having appear'd in so many noted Tryals, as do in so many visible and legible Characters disclose the Author, Sir R. S. does under his hand readily and utterly disclaim it; and is heartily believ'd in what he says.

This slanderous Author acknowledges, that upon the Lord Russell's Tryal some blamed the Jury, most censured the Witnesses, but very few arraigned the Council or Court. Here it evidently appears how our Author is concerned: first for the Council, and then the Court, and *Self* hath the preference, though it be here with a breach of good manners to name the Council before the Court.

*Page the first*, he takes it heinously that any Gentlemen of the Long Robe should appear in Print to Ridicule their own Profession, this grossly speaks our Author one that was of Council in the Tryal. *Et tu Brute?*

If it had been an open Enemy, a Doctor of the Commons exercising his Wit and Raillery on the Common Law Proceedings, then (as he expresses himself) this Author could have born it; but he did not imagine that Satyrs and Invectives upon past Proceedings should be writ by Lawyers!

In reply to which it may be justly said, That when Lawyers will make use of their Wit and Rhetorick, as this Answerer has done, to bolster up an unjust and revengeful Proceeding, and out of ambitious Designs, to get or continue in Favour, and to gain greater Preferment, or shew their Parts, will engage in Causes of Blood, and help to destroy the Innocent, and be instrumental in subverting the Laws and Government, it is every Lawyers Duty as far as in him lies, to vindicate the Profession, by utterly disclaiming and abhorring all such Practices: And the Defender can appeal to all that have known his Conversation for above this forty years and under, whether ever he used any such pious mean and ungenerous Arts and Methods, better becoming the Stage than a Court of Justice; and whether he did not, when it was in his power, constantly restrain and condemn that scandalous and disgraceful way of Practice. And he can as freely appeal to all that will be at the pains to Read his Printed Argument (which this conceal'd Author so unjustly Censures) whether any such bitter Reviling, and revengeful Humour, appear in any part of what he so publish'd, or the least reflecting upon any particular person, but only in the general, and no further than the meer Justice of the Cause did extort from him; so far was he from this Author's scurrilous and rude course of reflecting upon any Persons private Conversation; but some mens faculties lie this way, and they are very well known, tho' after such manifest and gross provocations that have been given by this Author, and such publick and scandalous Actings of his in the eye of the World, it might justly be said with the Poet:

*Difficile est Satyras non Scribere,*

The Author of this Answer, in his first Paragraph, would have the World believe that he writes upon no other design than to support Magistracy, and the Government; *a Noble Theme*



(as he terms it): Every Man knows what sort of Government he labour'd to support; but the other day, and how far he was instrumental in it; but it is rather thought fit to leave him to a General Act of Indemnity and Oblivion, then take any Revenge upon him.

He seems to allow the Lord Russell's Defender, in his Fourth Paragraph, to be an Author of Age, Experience, Figure, and Learning, (but he will not say Candour or Honesty). Thus he writes.

The Lord Russell's Defender is very glad he hath so little of this Adversary's Commendation, for it would gain but small esteem amongst Men of true worth, to be commended by him. It might be said to him with the Philosopher upon the like occasion, being commended by an infamous person, *What Ill have I done, that thou shouldst thus Commend me?* Yet that Candour and Honesty, which he covertly refuses to allow, is that which the Lord Russell's Defender prefers before all this Answerer's mercenary Wit and Rhetorick.

In his fifth Paragraph he judges the Lord Russell very unfortunate to fall under the Accusation of Treason, and says that Noble Lord was most pitied, of any under those Circumstances.

*Reply.* That Noble Lord's misfortune (among other things) was his falling under the lash of so bitter and sharp a Tongue as yours, who however you seem now to mention that Lord with pity, had then no pity for him, but used him with severity; as may appear by your own Printed Narrative of that Tryal, and your Rhetorical Flourishes in a Case of innocent Blood, which contributed in an high degree to enveagle the Jury, and bring that Noble Lord to the Scaffold.

He confidently says in the same Paragraph, that *in truth the fairness and indifferency of that Tryal was such, that his own Relations were pleased.*

*Reply.* How untrue this is, in both the parts of it, that the Tryal was very far from being Fair and Indifferent, and that his nearest Relations were highly exasperated and offended, shall appear before we part.

In the Sixth Paragraph of his sheet, he complains that *the memory of that Unfortunate Gentleman, was revived by the Publication of the Defence of his Innocency.*

Why



Why what hurt in the reviving of his Memory? his Memory is precious, he dyed a Martyr for his Religion, and for the Rights and Liberties of his Countrey, and fell a Sacrifice under cruel and merciless hands.

It is indeed this Answerers Conscience that flies in his face, the reviving of this Noble Lords Memory speaks Terror and Amazement to the Answerer. Thus did bloody *Herod* when he heard of the Fame of Jesus, he presently cries out, *This is John whom I Beheaded.*

He does prepare himself to make use of *indecent or disrespectful Language*, (as himself expresses it) and comforts himself with the thought, that his Name shall not be known. A pitiful and unmanly dealing, not becoming a person pretending to Ingenuity. The Lord *Russel's* Defender dealt otherwise, and owns his Name, and will let the world know what this Answerer is.

In the four next ensuing Paragraphs, he is much to seek for what end and purpose the Lord *Russel's* Defence was Printed in that Pamphlet (as his wonted Rhetorick thinks fit to call it.)

It could not be (as he most contemptuously says) for Consumption of Paper.

Nor for the Bookseller's Profit, for a Reason to be guess'd at.

Forbear, for shame, to use these sly and silly Intimations, they are fitter for School-boys, or the Mountebank's Stage, or for *Billings-gate*, than for a Man of your Figure, one may be ashamed to have any Dispute with such an Emperick, or rather a jesting and jeering Merry-Andrew. Pray keep this Sport for the next *Bartholomew-Fair*, and learn more Gravity and Civility.

It could not be (as he further proceeds upon the same Enquiry) for the sake of the Lord *Russel's* Memory, or any of his surviving Relations; for what was written in the Lord *Russel's* Defence, is (says he) but a painting to the Life, the too deep Concern of that Noble Lord, in a weak as well as criminal Enterprize.

This is wonderful boldness and daring in this Answerer, still to pronounce him a Criminal (that Noble Lord)

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whom

whom the Supream Power of the Nation, and the highest Judicature and Authority have adjudged Innocent. And yet he has the Impudence to entitle his undutiful Pamphlet, *The Magistracy and Government of England Vindicated*: And to Publish this, after he, as well as any Man knew that the Act of Parliament had pass'd, asserting the Innocency of that Noble Lord, and the Barbarity and Injustice of the Proceedings against him. Wherein this *Answerer* had so great an Hand, and so bitter and sharp a Tongue.

One would think that an ordinary Wit might have served to put him in mind, that as yet there is no Act of General Pardon and Indemnity pass'd, And who knows upon whom the great Exception may light?

But he gives a very just occasion to the Lord *Russel's* Defender, to let the World know for what end and purpose he long since writ, and so lately Printed so despised a Pamphlet; by which, even his Adversary may be convinc'd, it was not meerly for Consumption of Paper, or for the Bookseller's Profit, but truly for the sake of that Lord's Memory, in asserting his Innocency, and at the desire, and for the sake of his surviving Relations. And for the truth of what is thus affirm'd, he does appeal to those Noble Relations of his, who are yet alive.

While that Noble Lord was upon his Tryal, or very soon after, there came a Letter to his Defender's hand, who was then in the Countrey, near Eighty Miles from London, and this from a person of great Honour, and one of the nearest Relation to that Noble Lord, requesting the Author of his Defence to afford the best Advice he could; and accordingly he heartily and freely gave it: Much of which does appear by what is Printed by him.

This was not the only Letter he receiv'd from that Lord's great Relations, upon that sad occasion: But after that bloody stroke had been given, a Paper was Publish'd as the Speech intended by that Dying Lord.

In Answer to which, the now *Answerer* and Adversary (as is too evident) did publish his first Pamphlet, Entituled, *An*  
An-

*Antidote against Poyson*, compos'd (to use its own words) of some Remarks upon the Paper printed by the direction of the Lady *Russel*, and mentioned to have been delivered by the Lord *Russel* to the Sheriffs at the place of Execution. Thus far of the Title of that pretended *Antidote*.

In the latter end of his second *Page*, that which is mentioned in the Discourse out of his Pamphlet call'd the *Antidote*, and which is barely repeated in order to be answer'd and confuted, he grossly mistakes in this latter Pamphlet, and falsely affirms, it is admitted to be true; and from thence endeavours to have the Lord *Russel's* Defender understood as arguing against the Lord *Russel*, and acknowledging his guilt: Which is a very unworthy way of dealing by this pretended *Answerer*, but easily discern'd by any wary and intelligent Reader. Nay, this *Answerer* himself immediately after, before he is aware, clears the Lord *Russel's* Defender again from the Imputation, by taking notice that the Defender of the Lord *Russel* endeavours to invalidate the Credibility of the Evidence given against the Lord *Russel*.

This Reply declines the taking notice of many of this *Answerer's* Paragraphs, that are spent merely in vilifying the Lord *Russel's* Defender, it being obvious that they were intended only to render mean and contemptible the person he undertakes to answer; it being beneath this Reply to repeat them, and to follow the *Answerer* in his rude and scurrilous way of writing.

It was indeed no Secret to the Learned, that a Variance between the Indictment and the Evidence, might be alledged on the *General Issue*; nor that *Treason* and the *Misprision* of it are different Crimes; nor that proofs of *Treason* must not be by *Hearsay* nor *Argument* only; nor that less than two Witnesses are not to be allow'd for proof of that Crime; nor that the Witnesses ought to be credible: But these are not so generally known to such as are not profess'd Lawyers; and may be usefully remembered to such as are brought upon their Tryals for their Lives, and are denied the help of Council when they most need it, and are apt to be more under a consternation, when they



they are beset with such sad apprehensions of their danger, and baited at by a multitude of crafty Wits, and such as abuse their Parts and Eloquence, to destroy the Innocent, and the Court (it may be) not always so indifferent as they should be. And these useful and well-intended Assistances, as ordinary and useless as the pretended *Answerer* would represent them, were very thankfully entertain'd, and made use of by several persons of great Abilities, and of the best Quality, who afterwards fell under the like cruel and malicious Prosecution: but they were no profess'd *Lawyers*. And most of these are still living, and will and do testify the truth hereof.

The *Answerer* in his fourth *Page* falls to argue the points in Law upon the great Head and Title of Treason.

This *Reply* forbears to repeat what the *Answerer* says upon this subject, or to repeat what this *Repliant* has formerly printed, but therein refers himself to what is so printed.

Only finds it necessary to state the point in question in as few and plain words as he can, and leave it to any impartial Reader to judge of it.

The great Statute of Treason, *viz.* that of the 25th of *Edw. 3.* was the only Statute upon which the Lord *Russel* was indicted, and this is acknowledg'd and profess'd by the *Attorney-General*, as appears by the printed Narrative of the Tryal, and he could best know his own meaning.

They could not proceed against the Lord *Russel* upon the late Statute of Treasons, made in 13 *Car. 2.* for that Statute limits the Prosecution to a certain time, after the Treason committed; which was elaps'd in the Lord *Russel's* Case.

Now the Statute of 25 *Edw. 3.* does specific and enumerate the several and particular Heads, and Sorts, or Species of Treason, that might be proceeded upon, or tryed and adjudged in the ordinary Courts, *viz.* in the *Kings-Bench*, or Judges of *Oyer and Terminer*, or *Gaol-delivery*. Such as that of *Newgate*, or the Sessions for *Gaol-delivery* at the *Old-Baily*, where the Noble Lord *Russel* was brought to his Tryal. The



The scope and drift of that Statute of 25 *Edw. 3.* ( as appears by the Preamble ) was to confine those ordinary Courts and the ordinary Judges to plain manifest Rules, what they should adjudge Treason, and what not, it being of so great Concernment to the lives of Men; and not to allow the Judges or Lawyers a latitude or liberty to make what they thought fit to be Treason, or to exercise the Tongues and unruly Noises of *Lawyers* in a matter of that moment. And that Statute of 25 *Edw. 3.* being in its nature a confining, restraining, and explanatory *Law*, ought therefore not to be largely extended or improv'd and stretched beyond the plain words and apparent sence of them.

Now among other several Species, or Heads, or sorts of Treason, particularly enumerated by that Statute, there are these two, pertinent to our Case, *viz.*

1. Compassing or Imagining the Death of the King.
2. Levying War against the King.

Whereupon the common Reader ( for whose satisfaction this is written ) may easily observe this distinction, That the first of these is Treason ( in the very imagining or conspiring ) though the King's Death do not ensue.

But the latter is not Treason in the conspiring and imagining, but the Treason must be in the actual levying of War.

So that barely to consult, conspire, or imagine to levy War, though there be never so plain nor so open or overt an act of such consulting or conspiring or imagining of it, will not amount to this Species or sort of Treason, upon this Statute of 25 *Edw. 3.* which is the only Statute upon which the Lord *Russel* was concern'd.

For that Statute of 25 *Edw. 3.* did not intend to make it Treason, to consult or conspire to levy War, without the actual levying of War.

This will not be denied nor disputed by the Lord *Russel's* Adversaries, nor by this *Answerer*.

But perfectly to evade this Statute, and the manifest intent and meaning of it, they insist,

That though conspiring to levy War, be not Treason within the Statute of 25 Edw. 3. yet to conspire, consult, agree, or conclude to stir up, or raise, or move Insurrection and Rebellion against the King, and to consult or conspire to seize the King's Guards, (which signifie one and the same thing with consulting or conspiring to levy War) these (say they) may be an open or overt Act, to prove a consulting or conspiring to kill the King.

What is this but to confound the several and distinct sorts and Species of Treasons, which the Statute of 25 E. 3. doth so carefully and industriously labour to distinguish?

And what is this, but to make a bare conspiring and consulting to levy War, without any actual levying of it, to be Treason within this Statute of 25 Edw. 3. which plainly this Statute would not have to be so taken? and so the good design and scope of the Statute, the security of mens lives is wholly overthrowed by this Artifice; and what shall be taken to be Treason, and what not, will be still as uncertain as it was before the making of that Act of 25

Edw. 3. And it was then a needless idle thing in those that made the Statute of 13 Car. 2. and so of former Statutes, to make the conspiring to levy War to be Treason: for by this practice and construction it is already made so to their hands, by 25 Edw. 3.

Now the Lord Russel was Indicted for Conspiring to kill King Charles the Second, and the overt or open Act alledged to show and signifie it, is nothing but his consulting and conspiring to raise and stir up Insurrection and Rebellion, and consulting to seize the King's Guards, (though they were not actually done) which are just the same thing with conspiring to levy War; which plainly is no Treason within the Statute of 25 Edw. 3. and therefore most clearly the Lord Russel was not guilty within that Statute, upon that Indictment and Evidence.

Since the Lord Russel's Defender has compos'd this short State of his Case upon this great point, there hath come to

to his hands; a printed half sheet, which has excellently well done the same work, which had been but a few hours sooner, it had saved the labour of this part of the present Discourse and Argument: This half sheet is justly intitled, *A Justification of the late Act of Parliament, for the Reversing the Judgment against the Lord Russell*.

There is but one Point more to speak to, and then the Lord Russell's Defender will bid his Answerer and Reader Adieu: And it is that Point which the Answerer's first Print, viz. his *Antidote against Poison*, did not mention, and so no occasion was given then to consider of it; but it is largely debated by Court and Council, at the Lord Russell's Tryal; yet being then but suddenly started, tho' it were well argued by the Lord Russell's Counsel assign'd, no Authorities however were then cited (tho' call'd for by the Court) to justify and make good the Arguments and Reasons urged by the Council; and it is a point in Law which the Act for Reversing the Judgment against the Lord Russell is principally, and in the first place grounded upon, viz. That there had been an undue and illegal Return of Jurors to Try that Noble Lord (too often praised of late) and that the Noble Lord was refused his lawful Challenge to them for want of Freehold: The truth of this as to matter of Fact, doth evidently appear by the large Narrative of the Tryal, Printed by that Lord's Adversaries; and this is not in the least touched upon by the printed half sheet, stiled, *A Justification of the Act for Reversal of the Judgment against that Lord*.

That Point in Law now only remains to be spoken to, viz. That in all Cases of the Tryal of a Man, especially in a Tryal for his Life, the Jurors ought to be Freeholders even at the Common Law; and before the Statute of a Ho 5. cap. 3. and that not only in Tryals within the City of London (as the Lord Russell's was) as in all other Cities or Towns Corporate where there was a Jurisdiction of Try-ing for Life in Cases criminal.

It was not material at the Common Law, how much, or of what yearly Value that Freehold was, or is to be, but some Freehold (tho' never so small) the Jurors ought to have, or else it was a just cause of Challenge. It



It was indeed the Statute of 2 H. 5. c. 3. that first set the yearly value of the Freehold, and requir'd it should be of 40 s. per Annum, which 40 s. per Annum was then in that King's Reign, being so long since, equivalent to a much higher Value now.

And therefore the Books and Authorities that speak of Freehold of a less Value then 40 s. per Annum, must of necessity be understood not to speak of Cases within that Statute, but of Cases at the Common Law.

3 H. 4. fol. 4. b. Rolles Abridgement, Title-tryal, fol. 648. It is there held, that Freehold of any value was sufficient for a Juror. This proves that Freehold is requisite, and that it was so before the Statute of 2 H. 5. it being in the Reign of K. Henry the Fifth's Father; and with this agrees Kelloway, fol. 46. towards the end.

Some other Cases after the time of King Henry the Fifth, proves the same, as 16 E. 4. fol. 8. half an Acre of Land, so it be within the Hundred, says that Book, is sufficient, and it is well known, that as to this qualification of having Freehold, the same Rule governs in the rest of the Jurors, as in those of the Hundred, 10 H. 6. Brookes Abridgement, Challenge 192. Hale's Pleas of the Crown, 260.

Nor do these Authorities distinguish at all between Cases criminal and civil, nor in Cases criminal between that of Treason and in Cases less criminal.

This being so at the Common Law, and the Statute of 2 H. 5. c. 3. only adding the yearly value, viz. 40 s. per Annum Freehold, which before at the Common Law, might be of any lower value. Now tho' that Statute of 2 H. 5. be Repeal'd, as to Tryals in Treason, as in truth it is by the latter Statute of 2 and 3 of Phillip and Mary, cap. 10. which Enacts that all Tryals in Treason, shall be according to the course of the Common Law, the result is, that still there must be Freeholders to Try, tho' they may be Freeholders as at the Common Law, of any yearly value whatsoever.

That the Statute of 2 H. 5. (while it was in force) did extend to Cases of Treason (tho' Treason was not expressly mentioned in it, and the Statute speaks very ambiguously



guously and obscurely) appears by the Authorities following, viz. *Stamford's Pleas of the Crown*, 161; and *Panton de Pace Regis, & Regni*, 187; and by the Statute of 33 H. 8. c. 23. in the Proviso, that reserves to the Party the Challenge, for want of 40 s. Freehold, even in case of Treason, though it make the Treason triable in any County.

See *Sir Christopher Blunt's Case*, Justice Croke, 37 Eliz. fol. 413. In an Information of Intrusion, by the Queen: a Juror was challenged for want of Freehold, and upon Examination of the Juror, it appear'd he had Freehold of 15 s. *per Annum* value, and that was adjudg'd sufficient; which admits it had been a good cause of Challenge, had there been no Freehold at all; and it necessarily implies that it was requir'd by the *Common Law*, for no Statute interposed, as to any lower value than 40 s. *per Annum*. Nor does this Case distinguish between the Case of Intrusion upon the Queen, and any other Case.

But it may reasonably be argued, if Freehold be necessary in a Juror, who is to try a Case of Intrusion only, a *Fortiori*, is it requisite in a Case of High-Treason, but in that Case of *Sir Christopher Blunt*, another Juror was challenged that had no Freehold, and he was therefore set aside.

Now that the Challenge for want of Freehold extends to the City of London, and other Cities and Burroughs, as well as to the Counties, is abundantly proved by the Statutes of 11 H. 6. c. 1. 7 H. 7. c. 5. and 23 H. 8. c. 13. to which the Reader for brevity-sake is referred.

It is no where maintain'd that an agreement to Poyson or Stab, &c. is no Treason, if the very Act do not ensue, as the *Answerer* very falsely alledges in the Second Column of his 6th Page, towards the lower end; for those have a manifest tendency towards killing, nor are they any distinct species or sorts, or kinds of Treason from the killing of the King, as that of Levying of War, and seizing the King's Guards (especially not shewing what Guards) are a distinct species from that of killing the King, and need not necessarily be understood to terminate and conclude in

a killing the King, taking the King Prisoner, or seizing his Person, may more reasonably be thought to aim at a killing of the King, or have a tendency towards it.

And the Indictment ought surely to have declar'd and express'd clearly and plainly what Guards were meant, there being variety of Guards; for every Indictment ought to contain certainty.

Herein the very Indictment was faulty.

The bold *Answerer* hopes the King will always preserve those Guards, tho' the Parliament have declar'd their sense to the contrary, when the present extraordinary occasion shall be over.

This daring presumptuous *Answerer* in defiance of the Act for Reversal of the Lord *Russel's* Attainder, the Tryal having been partial, unjust, and illegal, as the Act affirms it, yet dares to averr in his last Page that there was Evidence enough to justifie all concerned in the Prosecution and Tryal.

The *Answerer*, towards his close, takes great care, and is much concern'd to justifie the King's Sollicitor that then was.

And this would encline one to think that the then King's Sollicitor was not the Author of that *Antidote against Poyson*; nor of this last Print, entituled, *The Magistracy and Government Vindicated*; which are so much alike in their stile and strain. And in truth that late King's Sollicitor doth utterly deny that he had any hand in either of them. And Sir *George Jeffries*, the last Lord Chancellor, could not compose this last. This being so, it may easily be judg'd where it must fix: for this, look into the printed Tryal.

I now refer the *Answerer* to justifie himself at Law, if he happen to be in danger of an Exception out of an Act of General Pardon and Indemnity, where he may have a fairer opportunity to defend himself in his own more immediate Concern for endeavouring to subvert the Law, which ever proves too hard for all its Opposers. And I will so far follow his Humour and Vein, as to conclude with Verses too.

Rode

*Rode Caper Vitē tamen hic cum stabis ad Aras  
In tua, quod fundi cornua, possit, erit.*

Which I thus English :

*Go, spiteful Satyr, bruise that Sacred Vine  
(The LAW) but know there shall not want for Wine  
To pour into thy Head, which may suffice,  
To render thee a perfect Sacrifice.*

• F I N I S .

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